

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE  
**REQUEST FOR CONTINUED EXAMINATION (RCE)**  
**TRANSMITTAL FORM (37 C.F.R. § 1.114)**

#10  
Weh  
B.  
5/23/03

DOCKET NO. 2326/29	APPLICATION SERIAL NO. 09/589,499	EXAMINER Dawson	ART UNIT 3761
-----------------------	--------------------------------------	--------------------	------------------

INVENTOR(S):  
Douglas MONGEON

**RECEIVED**  
MAY 22 2003  
TECHNOLOGY CENTER R3700

Address to:  
Mail Stop 313(c)  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

This is a request for continued examination under 37 C.F.R. § 1.114 (RCE) of pending application Serial No. 09/589,499, filed on June 7, 2000, entitled **ARTIFICIAL AIRWAY DEVICE AND METHOD OF ITS USE**.

The following constitute the submission **required** by 37 C.F.R. § 1.114(a) and is attached:

- ☒ Amendment After Final Office Action (*see below*)
- ☒ Information Disclosure Statement
- ☐ Drawing Changes
- ☒ Other Submission: Amendment & Request for Interference

1. The filing fee for this RCE and the required amendment/submission is calculated below. The fee below is calculated based on the status of the claims after the entry of the attached amendment/submission. The fee for any new additional claims is included with this RCE, the fee for previously entered additional claims having already been paid.

2. Applicant respectfully requests a one month extension of time for which a response period expiring on April 23, 2003, was set. The extended period expires on May 23, 2003. The Commissioner is hereby authorized to charge payment of the 37 C.F.R. \* 1.136(a) extension fee of \$110.000 to the deposit account of **Kenyon & Kenyon**, deposit account number 11-0600.

	CLAIMS REMAINING AFTER AMENDMENT	MINUS	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT NUMBER EXTRA*	RATE (\$ ) PER CLAIM	FEE (\$)
BASIC FEE						750.00
TOTAL CLAIMS	23		20	3	18.00	54.00
INDEPENDENT CLAIMS	3		3	0	84.00	0.00
MULTIPLE DEPENDENT CLAIM						
				Number extra must 01 FC:1251 or larger 02 FC:1201 03 FC:1202	TOTAL 110.00 CH 750.00 CH EX. 00 CH TOTAL	804.00
If Applicant is a small entity under 37 C.F.R. §§ 1.9 and 1.27, then divide total fee by 2, and enter amount here.				SMALL ENTITY		

05/23/2003 BDENNY 00002003 110600 09589499  
**RECEIVED**  
MAY 13 2003  
OFFICE OF PETITIONS

3. Please charge the required RCE and submission filing fee of **\$804.00** to the deposit account of **Kenyon & Kenyon**, deposit account number **11-0600**.

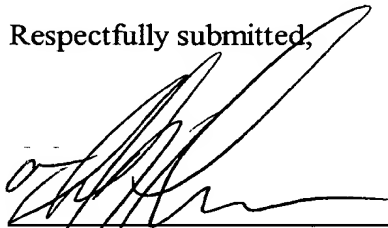
4. The Commissioner is hereby authorized to charge payment of the fees, including any additional fees required, associated with this communication or arising during the pendency of this application, or to credit any overpayment, to the deposit account of **Kenyon & Kenyon**, deposit account number **11-0600**.

5. A duplicate copy of this transmittal form is enclosed.

Respectfully submitted,

Dated: May 13, 2003

By:



Thomas C. Hughes (Reg. No. 42,674)

KENYON & KENYON  
One Broadway  
New York, New York 10004  
(212) 425-7200 (telephone)  
(212) 425-5288 (facsimile)

## **SPECIAL NOTES REGARDING RCE PROCEDURES**

- RCE practice is **not applicable** to provisional applications, design applications, applications filed before June 8, 1995, or during reexamination. See 37 C.F.R. § 1.114(d) below.
- This RCE form **must** be accompanied by a “submission” (e.g., an amendment). See 37 C.F.R. § 1.114(a), (b).

### **Additional Notes**

- Treat claim fee calculation as you would an amendment filed by itself.
- The applicant may not defer paying the fee for an RCE.
- An RCE is entitled to the benefit of a Certificate of Mailing under 37 C.F.R. § 1.8.
- Inventorship carries/continues. Any change must be via 37 C.F.R. § 1.48.
- Small entity status carries/continues.

### **37 C.F.R. § 1.114(d)**

“(d) The provisions of this section **do not** apply in any application in which the Office has not mailed at least one of an Office Action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151. The provisions of this section also **do not** apply to:

- (1) A provisional application;
- (2) An application for a utility or plant patent filed under 35 U.S.C. 111(a) before June 8, 1995;
- (3) An international application filed under 35 U.S.C. 363 before June 8, 1995;
- (4) An application for a design patent; or
- (5) A patent under reexamination.”

Interim Rule, 65 Fed. Reg. 14865, 14872-73 (March 20, 2000).